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UNITED STATES PATENT AND TRADEMARK OFFICE

<b>APPLICANT:</b>	Weiss, Steven A.	}	
<b>SERIAL NO.:</b>	09/687,769	}	<b>ART UNIT: 3714</b>
<b>FILED:</b>	October 13, 2000	}	<b>EXAMINER: Ashburn, S.</b>
<b>FOR:</b>	Gaming Award Notice System and Method	}	<b>DOCKET NO: 28265-pa</b>

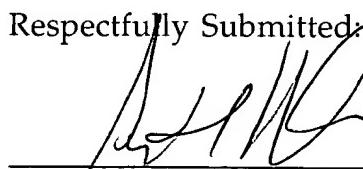
To: Commissioner for Patents  
Post Office Box 1450  
Alexandria, Virginia 22313-1450

**AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT**

It is believed that no additional fees are due with respect to the filing of the appended Appeal Brief. However, should any fees be due with respect to this filing, such fees should be charged to deposit account 11-1734, attorney docket number 28265-pa. A duplicate copy of this authorization is enclosed.

Dated: October 4, 2004

Respectfully Submitted:

  
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Applicant's Attorney  
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Registration No.: 27,037



**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

**Applicant:** Weiss, Steven A.

**Serial No.:** 09/687,769

**Filed:** October 13, 2000

**For:** Gaming Device and Method

**Paper:**

1. An Appeal Brief (responsive to the Notice of Appeal filed August 2, 2004) (in triplicate);
2. An Authorization to Charge Deposit Account (original and one copy); and
3. A check in the amount of \$340.00; and
3. A Return Receipt Card.

The notice of appeal to which this Appeal Brief responds was received on August 2, 2004, thereby requiring that this Brief be filed on October 2, 2004. October 2, 2004 was a Saturday and October 3, 2004 was a Sunday. Therefore, this Appeal Brief is timely filed on Monday, August 4, 2004.

I hereby certify that the above identified correspondence, which is attached, is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Commissioner for Patents  
Post Office Box 1450  
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on October 4, 2004.

Robin Southworth

Robin Southworth  
(Signature)

October 4, 2004  
(Date of Signature)

28265-pa



UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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**ART UNIT: 3714**

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Post Office Box 1450  
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**APPELLANT'S BRIEF (37 CFR § 41.37)**

This Brief is filed in support of the Notice of Appeal filed on August 2, 2004, appealing the Examiner's decision of making final a rejection of claims 1-15.

**REAL PARTY IN INTEREST**

The real parties in interest in this appeal are the appellant named in the caption of the brief and Casino Data Systems as assignee.

**RELATED APPEALS AND INTERFERENCES**

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal, there are no such appeals or interferences.

## **STATUS OF CLAIMS**

### **A. TOTAL NUMBER OF CLAIMS IN APPLICATION - Fifteen (15)**

Claims in the application: 1-15.

### **B. STATUS OF ALL THE CLAIMS**

1. Claims canceled: None
2. Claims withdrawn from consideration but not canceled: None.
3. Claims pending: 1-15.
4. Claims allowed: None.
5. Claims rejected: 1-15.

### **C. CLAIMS ON APPEAL**

The claims on appeal are: 1-15.

**STATUS OF AMENDMENTS**

No amendments were filed subsequent to the final rejection mailed on January 26, 2004.

### **SUMMARY OF CLAIMED SUBJECT MATTER**

Independent claim 1 is directed to a method for informing prospective and existing patrons of a gaming establishment about gaming activities involving wagers currently or prospectively in place, the steps including: posting on a wide area network, information concerning a plurality of specific gaming devices located at a site of the gaming establishment; posting on the wide area network information on potential awards, promotions and contests available through gaming; displaying procedures correlating specific gaming device use at the site to attain the awards, promotions and contests; and allowing a prospective player access from a remote location to search as a function of game type, award kind, or individual player status. Spec., pp. 5 and 6; p. 7, l. 20 - p. 8, l. 4; and p. 11, l. 13 - p. 12, l. 16.

Independent claim 7 is directed to a method for informing prospective and existing patrons of a gaming establishment, the steps including: posting on a wide area network information on potential awards, promotions and contests available only at the gaming establishment through wagering on specific gaming devices; allowing a prospective player access from a remote location to search as a function of game type, award kind, or individual player status; and updating the awards, contests, and promotions as they have been changed or previously awarded through wagering. Spec., p. 8, ll. 5-9 and p. 11, l. 6 - p. 12, l. 16.

Independent claim 10 is directed to a gaming system, comprising, in combination: means for displaying awards, contests, and promotions available at a

gaming establishment through wagering on a wide area network; means for acquiring the awards, contests and promotions at the establishment through wagering using specific gaming devices; means for replacing the acquired contests, awards and promotions with new ones; and means for allowing a prospective or existing patron to access from a remote location information as a function of game type, award kind, or player status. Spec., p. 8, ll. 10-14 and p. 11, l. 13 - p. 12, l. 16.

Claim 11 depends from claim 10 and further includes means to allow play at a player's remote site. Spec., p. 12 - p. 13, l. 5.

Claim 12 depends from claim 11 and further includes means to award the player as a result of said play. Spec., p. 12 - p. 13, l. 5.

Claim 13 depends on claim 12 and further includes transport means to deliver said award to a player designated locale. Spec., p. 12 - p. 13, l. 5.

Claim 14 depends on claim 13 and further defines the delivery means as a digital voucher. Spec., p. 12 - p. 13, l. 5.

Claim 15 depends on claim 13 and further includes means for displaying said rewards, contests and promotions in the casino on a gaming machine. Spec., p. 16, ll.16-21.

**GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Claims 1-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Eggleston et al. (US 6,061,660) in view of Kim Pryor, *Virtual Value, How to find dynamite deals on the Internet*, Casino Player, vol. 9, No. 10 (May 1998), at <<http://www.casinoplayer.com/archive/9806cp/cpbody.html>> (hereinafter "Pryor").
  
2. Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Eggleston et al. in view of Pryor in combination with Kelly et al. (US 6,015,344).

## ARGUMENTS

### (a) Claims 1-14

The Examiner has rejected claims 1 through 14 under 35 U.S.C. § 103(a) as being unpatentable over Eggleston et al. in view of Pryor.

Eggleston et al. discloses a system for providing incentive programs over a computer network, including the Internet. Col. 5, ll. 46-54. In particular, the system disclosed in Eggleston et al. comprises a host computer<sup>1</sup> connected to a network,<sup>2</sup> a client computer of a consumer<sup>3</sup> connected to the network, a sponsor computer of a sponsor<sup>4</sup> connected to the network, an incentive participation application program for participation by the consumer in an incentive program, wherein the participation may be in incentive programs of a plurality of sponsors, a server of the host computer, a web site, located on the server of the host computer, wherein the

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<sup>1</sup> Eggleston et al. defines the term "host" as any individual or company who wishes to provide a system for permitting sponsoring companies to offer incentive programs to consumers, employees, suppliers, partners and the like of the individual or company, and for creation of databases of retail, catalog, sponsor and other items that permit automated fulfillment of specific items listed in computer inventory systems of retailers at a retail location. See col. 7.

<sup>2</sup> Eggleston et al. defines the term "network" as any system comprising a series of computers linked by telecommunications networks and may include the Internet, intranets, or other computer networks. See col. 7.

<sup>3</sup> Eggleston et al. defines the term "consumer" as any individual or user who wishes to participate in awards or incentive programs offered by sponsors. Consumers may be third parties, such as partners or suppliers, may be employees of sponsors, or may be customers of the sponsor's merchandise or the merchandise of third parties; thus, the present invention is intended to encompass systems and methods by which a company offers incentive programs to individuals within its organization, such as via a computer intranet, as well as systems and methods for providing incentive programs to third parties via external computer networks. See col. 8.

consumer may participate in an incentive program via the web site, a database on the host computer of awards associated with the incentive participation application programs, an award association application program for associating an award with an incentive program and a fulfillment automation application program for associating a fulfillment method with an award. Col. 6, ll. 30-45.

Pryor suggests that the Internet can be used as a personal travel agent and that many gaming establishments or casinos have web sites that may provide a variety of information. For example, it states that:

Like many casinos, the Imperial Palace showcases their fun book coupons and other discounts on their website. New users can print the coupons and have them handy when they arrive at the property.

In other words, Pryor simply teaches that the Internet can be used as a tool by consumers in planning their casino vacations. This much is admitted in appellant's specification (spec., p. 4, ll. 3-11).

With respect to claims 1, 7, and 10, the Examiner claims that Eggleston discloses each element except "posting information about wagering games located at a site of a gaming establishment." In addition, the Examiner seems to indicate that the addition of the Pryor reference makes up for the fact that Eggleston contains no reference whatsoever to gaming devices or gaming establishments. Appellant respectfully submits that application of Pryor is limited to the presence of general

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<sup>4</sup> Eggleston et al. defines the term "sponsor" as any individual or company that wishes to offer an incentive program or promotion. See col. 7.

casino information on the Internet. Pryor does not contemplate the extent of the information and opportunities specifically claimed in the instant application. It is a fact that neither Eggleston, Pryor, nor their combination contains all the elements of the claims of the instant invention; thus, the rejections under these references must be reversed. The rejection of all dependent claims must similarly be reversed, as the dependent claims inherently contain the limitations of the independent claims from which they depend.

Note that the claims specifically use the terms "gaming activities," "gaming establishment" and "gaming device."<sup>5</sup> The ordinary and accustomed meaning of the term "gaming" is "*n.* the playing of games of chance for money; gambling." The World Book Dictionary, vol. 1, p.876. On the same page of this dictionary, the term "gaming house" is defined as "gambling house"; the term "gaming room" is defined as "gambling room"; and the term "gaming table" is defined as "gambling table." Thus, as used in appellant's claims, the term "gaming device" is synonymous with "gambling device."

The examiner has determined that "Eggleston discloses posting information about a plurality of gaming devices on a wide area network (figs. 8, 9 and col. 13:42-50" (final rejection, p. 3, ll. 15-16). This is incorrect. At column 13, lines 42-50,

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<sup>5</sup> The general rule is that terms in the claim are to be given their ordinary and accustomed meaning. See Johnson Worldwide Assoc., Inc. v. Zebco Corp, 175 F.3d 985, 989, 50 USPQ2d 1607, 1610 (Fed. Cir. 1999); York Prods., Inc. v. Central Tractor Farm & Family Ctr., 99 F.3d 1568, 1572, 40 USPQ2d 1619, 1622 (Fed. Cir. 1996).

Eggleston discloses posting information about a plurality of “incentive programs” on a wide area network. The “incentive programs” could include scratch-and-win games, sweepstakes games, treasure hunt games, or computer games. The “games” disclosed by Eggleston are not gaming or gambling devices.

Also, contrary to the examiner’s findings of fact, Eggleston does not disclose “displaying procedures correlating game device use to attain awards, promotions and contests through waging. (figs. 8 and 9 and cols. 12:21-13:5)” (final rejection, p. 3, ll. 17- 18). Again, Eggleston contains no disclosure of gaming or gambling devices, much less displaying procedures correlating game device use to attain awards, promotions and contests through waging or gambling.

### Claim 1

Claim 1 is directed to a method of informing prospective and existing patrons of a gaming establishment about gaming activities involving wagers currently or prospectively in place. Nothing in Eggleston or Pryor discusses wagers currently or prospectively in place. Incentive programs are free undertakings having no risk. This is not related to the present invention, which deals with wagering propositions.

Independent claim 1 makes explicit that the information is about specific gaming devices and that the awards, promotions and contests are available through gaming.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Neither Eggleston et al. nor Pryor teaches or suggests a method of the type recited in claim 1 including the steps of:

(a) posting on a wide area network, information concerning a plurality of specific gaming devices located at a site of the gaming establishment. Eggleston does not disclose anything relating to specific gaming devices or to gaming establishments. Pryor discloses only the presence of general information about gaming establishments;

(b) posting on the wide area network information on potential awards, promotions and contests available through gaming. Eggleston discloses the presence of information about various incentive programs offered on various web sites. Pryor discusses special rates, promotions, and coupons offered by particular establishments. Neither discloses posting on the wide area network information on potential awards, promotions and contests available through gaming;

(c) displaying procedures correlating specific gaming device use at the site to attain the awards, promotions and contests. Eggleston can disclose no such thing, because it does not disclose any gaming devices, and it does not disclose any "site" at which a gaming device may be located. Pryor merely discloses that some casinos

offer special rates, promotions, and coupons, and nothing related to a specific gaming device; and

(d) allowing a prospective player access from a remote location to search as a function of game type, award kind, or individual player status. Eggleston discloses that a consumer may search by the type of prize, but says nothing about game type or individual player status. Pryor has no relevance.

Since the elements of claim 1 are not present in either Eggleston, Pryor, or their combination, claim 1 is not rendered obvious by the combined teachings of Eggleston et al. and Pryor.

#### Claims 2-4

Claim 2 requires allowing a gaming proposition, hosted by a gaming establishment, to be played on the patron=s computer remote from the wide area network's locale, and rewarding success regarding the gaming proposition. Neither Eggleston nor Pryor discloses play of a gaming proposition hosted by a gaming establishment.

The rejections of claims 3 and 4 suffer from the same frailty as the rejection of claims 1 and 2.

### Claim 5

Claim 5 requires rewarding success by allowing redemption of an award in person at a casino. Nothing in Eggleston indicates the presence of a casino, and the addition of Pryor does not compensate for its absence. Pryor's general recitation of information about casinos does not translate into rewarding success by allowing redemption of an award in person at a casino.

### Claim 6

Claim 6 requires posting new games on the wide area network. The portion of Eggleston cited by the Examiner with respect to claim 6 refers to a sponsor purchasing an incentive program and setting it up. The main database registers that a new sponsor is present on the network, which is not the same thing as offering new games. Eggleston merely says that when a new sponsor is present, that information can be displayed. The games offered in each incentive program are the same; the sponsor is merely offered the choice of which kinds of programs to offer (col. 14, lines 26-49).

### Claim 7

Independent claim 7 is directed to a method for informing prospective and existing patrons of a gaming establishment, including the steps of:

(a) posting on a wide area network information on potential awards, promotions and contests available only at the gaming establishment through wagering on specific gaming devices. Eggleston has nothing to do with wagering, much less wagering on specific gaming devices. Pryor discloses general information about various gaming establishments, which may include awards, promotions, or coupons provided on the website. Pryor does not mention wagering in connection with its awards, promotions or coupons. Thus, the combination of Eggleston and Pryor could not produce this element;

(b) allowing a prospective player access from a remote location to search as a function of game type, award kind, or individual player status. Eggleston discloses that a consumer may search by the type of prize, but says nothing about game type or individual player status. Pryor has no relevance; and

(c) updating the awards, contests, and promotions as they have been changed or previously awarded through wagering. Eggleston discloses updating a database of awards as they are “won,” but this does not include any references to wagering. Pryor has no relevance, disclosing nothing about awards or databases.

Since the elements of claim 7 are not present in either Eggleston, Pryor, or their combination, claim 7 is not rendered obvious by the combined teachings of Eggleston et al. and Pryor.

### Claim 8

Claim 8 requires providing the update on a gaming machine at a casino which is under the aegis of the gaming establishment. The portion of Eggleston cited by the Examiner details redemption of an award by a consumer. This claim specifically requires a gaming machine on which the update is provided. This is not merely updating a database, but providing the update in a particular environment, which is claimed. There is no equivalence to gaming machines or a gaming establishment in Eggleston. Pryor provides no assistance.

### Claim 9

Claim 9 requires allowing play from the remote location for an award at the network. Eggleston does not disclose awards on the network resulting from play of a specific gaming device. All awards are available at a physical retailer location or are mailed to the winner, and wins never involve network awards resulting from play of a specific gaming device. Pryor provides no assistance.

### Claims 10-14

Independent claim 10 is directed to a gaming system, comprising, in combination:

(a) means for displaying awards, contests, and promotions available at a gaming establishment through wagering on a wide area network. Eggleston

discloses nothing about casinos or wagering. Pryor discloses only promotions, awards, and coupons made available through a website, having absolutely nothing to do with gaming or wagering. Claim 10 requires that the awards, contests, and promotions be available at a gaming establishment through wagering:

(b) means for acquiring the awards, contests and promotions at the establishment through wagering using specific gaming devices. Eggleston allows a consumer to acquire awards in incentive programs, which have nothing to do with gaming or wagering, much less through waging using a specific gaming device. Pryor discloses only promotions, awards, and coupons made available through a website, having absolutely nothing to do with gaming or wagering. Pryor does not provide a means to acquire anything; it merely discloses the provision of information. Claim 10 requires that the acquisition of awards, contests, and promotions be at a gaming establishment through wagering;

(c) means for replacing the acquired contests, awards and promotions with new ones. To the extent that the awards, promotions, and contests must be won through wagering, neither Eggleston nor Pryor discloses this element of claim 10; and

(d) means for allowing a prospective or existing patron to access from a remote location information as a function of game type, award kind, or player status. Eggleston discloses updating a database of awards as they are “won,” but this

does not include any references to wagering using a specific gaming device. Pryor has no relevance, disclosing nothing about awards or databases.

Since the elements of claim 10 are not present in either Eggleston, Pryor, or their combination, claim 10 is not rendered obvious by the combined teachings of Eggleston et al. and Pryor.

The rejections of claims 11-14 suffer from the same frailties as the rejection of claim 10.

#### (b) Claim 15

The Examiner has rejected claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Eggleston et al. (US 6,061,660) in view of Pryor, as applied to claims 1 through 14, and further in view of Kelly et al. (US 6,015,344).

Kelly et al. merely discloses a technique for selecting a prize displayed on a menu of a gaming apparatus as a function of available credits vis-á-vis credits required to redeem any given prize.

Claim 15 shares the limitations of claims 10 through 13. Kelly does not rectify the deficiencies noted above with regard to the combination of Eggleston and Pryor. Kelly has no concern about further displaying rewards, contest and promotions in the casino on a gaming machine, since Kelly only displays on a game apparatus and not elsewhere accessible to a consumer. Accordingly, Kelly's relevance is remote and attenuated, while its similarities are merely coincidental.

**CONCLUSION**

In view of the foregoing, it is respectfully requested that the Examiner's final rejection be vacated, the rejections tendered by the Examiner be reversed and this case be passed to issue. Such action is respectfully requested.

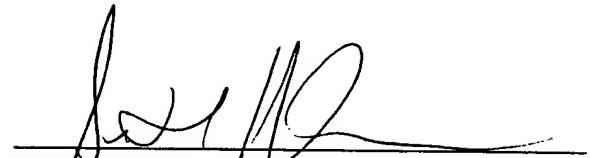
The Board is respectfully requested to note that the Notice of Appeal to which this Appeal Brief responds was received on August 2, 2004, thereby requiring that this Brief be filed on October 2, 2004. October 2, 2004 was a Saturday and October 3, 2004 was a Sunday. Therefore, this Appeal Brief is timely filed on Monday, August 4, 2004.

**APPENDIX OF THE CLAIMS ON APPEAL**

An appendix containing a copy of the claims involved in this appeal is attached.

Dated: October 4, 2004

Respectfully Submitted:



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## APPENDIX: CLAIMS ON APPEAL

1. A method for informing prospective and existing patrons of a gaming establishment about gaming activities involving wagers currently or prospectively in place, the steps including:

posting on a wide area network, information concerning a plurality of specific gaming devices located at a site of the gaming establishment;

posting on the wide area network information on potential awards, promotions and contests available through gaming;

displaying procedures correlating specific gaming device use at the site to attain the awards, promotions and contests; and

allowing a prospective player access from a remote location to search as a function of game type, award kind, or individual player status.

2. The method of claim 1 including allowing a gaming proposition, hosted by a gaming establishment, to be played on the patron's computer remote from the wide area network's locale, and rewarding success regarding the gaming proposition.

3. The method of claim 2 including rewarding success by a digital voucher.

4. The method of claim 2 including rewarding success by transport of a manifestation commemorating the success by allowing a player to designate a locale.

5. The method of claim 2 including rewarding success by allowing redemption of an award in person at a casino.

6. The method of claim 2 including posting new games on the wide area network.

7. A method for informing prospective and existing patrons of a gaming establishment, the steps including:

posting on a wide area network information on potential awards, promotions and contests available only at the gaming establishment through wagering on specific gaming devices;

allowing a prospective player access from a remote location to search as a function of game type, award kind, or individual player status;

and updating the awards, contests, and promotions as they have been changed or previously awarded through wagering.

8. The method of claim 7 including providing the update on a gaming machine at a casino which is under the aegis of the gaming establishment.

9. The method of claim 7 including allowing play from the remote location for an award at the network.

10. A gaming system, comprising, in combination:
  - means for displaying awards, contests, and promotions available at a gaming establishment through wagering on a wide area network;
  - means for acquiring the awards, contests and promotions at the establishment through wagering using specific gaming devices;
  - means for replacing the acquired contests, awards and promotions with new ones; and
  - means for allowing a prospective or existing patron to access from a remote location information as a function of game type, award kind, or player status.
11. The system of claim 10 further including means to allow play at a player's remote site.
12. The system of claim 11 further including means to award the player as a result of said play.
13. The system of claim 12 further including transport means to deliver said award to a player designated locale.
14. The system of claim 13 wherein said delivery means is a digital voucher.

15. The system of claim 13 further including means for displaying said rewards, contests and promotions in the casino on a gaming machine.